

FEB 01 2007

REMARKS

Applicants' amendment to instant claim 6 should properly be entered after-Final Rejection because the amendment seeks only to avoid possible indefiniteness issues, and simplifies any issues for Appeal. The amendment was not earlier made because Applicants only discovered a possible indefiniteness issue from review of the December 01, 2006 Office Action and, before that time, believed the issue to relate only to the written description requirement.

Upon entry of the present amendment instant claims 1-4, 8-10, and 18-19 will stand pending in this Application. No new matter is added by the present amendment.

**Statement Regarding Common Ownership Under 35 USC 103(c)**

As of the time of the filing of the instant application, the instant application is subject to an obligation of assignment to Rohm and Haas Company.

As of the time of the filing of the instant application, U.S. Patent Application Serial No. 10/642,791, to Brown et al., is subject to an obligation of assignment to Rohm and Haas Company.

As shown in the preceding two paragraphs, on the filing date of the instant application each of the instant application, and U.S. Patent Application Serial No. 10/642,791 was subject to an obligation of assignment to the same person, Rohm and Haas Company. Further, the instant application has an effective filing date of December 19, 2002, whereas U.S. Patent Application Serial No. 10/642,791 was published on March 18, 2004. Therefore, U.S. Patent Application Serial No. 10/642,791 is available as prior art only under 35 USC § 102(e), (f) and (g). Accordingly, U.S. Patent Application Serial No. 10/642,791, is not available as prior art under 35 USC § 103. 35 USC § 103(c).

**Claim Rejections: 35 U.S.C. §112**

Claim 6 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicants have cancelled instant claim 6, so that this rejection is now moot.

U.S. Serial No. 10/730,353 Reply to 1-Dec-06 OA

Page 5 of 8

**Double Patenting**

Claims 1-4, 6, 8-10, and 18-19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of Application Serial No. 10/642,791 in view of Dersch *et al.* (U.S. 6,492,451). Applicants respectfully traverse this rejection. Application Serial No. 10/642,791 and the instant application are commonly owned. See the Statement of Common Ownership, above.

Because the double patenting rejection is provisional and the instant claims are otherwise allowable, current PTO practice dictates that the instant application should be passed to issue. See MPEP 8.04.I.B.

**Claim Rejections: 35 U.S.C. §102(b)**

Claim 18 is rejected under 35 U.S.C. §102(b) as being anticipated by Ma *et al.* (U.S. 6,247,808), hereafter "Ma". Applicants respectfully traverse this rejection.

Ma fails to disclose a polymer composition comprising organic colorant particles and polymer particles comprised of polymerized units of phosphorus acid monomer and having first phosphorus acid groups, as instantly recited in claim 18. Contrast the instant claims with Ma at Col. 4, lines 25-30 and 49-54, especially, line 50; Col. 8, lines 4-6; Col. 9, lines 16-18 (any polymer described therein is a low molecular weight polymeric dispersant). The portion of Ma Col. 6, lines 42-46, cited to describe particle sizes fails to refer to the polymer particle size. Contrast the section of Ma entitled "POLYMER", Col. 7, line 35 to Col. 9, line 38 versus Ma at Col. 6, line 25 to Col. 7, line 33. Thus, Ma fails to disclose each and every feature of the rejected claim, Ma does not anticipate claim 18. This rejection should be withdrawn.

**Claim Rejections: 35 U.S.C. §102(e)**

Claims 18 and 19 are rejected under 35 U.S.C. §102(e) as being anticipated by Dersch *et al.* (U.S. 6,492,451), hereafter "Dersch". Applicants respectfully traverse this rejection.

Dersch fails to disclose polymers prepared by aqueous emulsion polymerization of phosphorus acid monomer at a pH of less than 2, as instantly recited. Further, Dersch fails to disclose compositions having a level of water soluble polymer having second phosphorus acid

U.S. Serial No. 10/730,353 Reply to 1-Dec-06 OA

Page 6 of 8

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FEB 01 2007

groups defined by the ratios of equivalents of second phosphorus acid groups to equivalents of first phosphorus acid groups in the range of less than or equal to 1.5, as instantly recited.

The present invention seeks to solve the problem wherein polymerization of phosphorus acid monomers fails to incorporate all of the phosphorus acid monomers into the growing polymer particle and much of the polymerization of these monomers occurs in the aqueous phase instead of in the growing polymer particle. See, for example, the instant specification at page 11, lines 14-28. Applicants have performed very many polymerizations of phosphorus acid monomers and have found that the "side-reaction" that produces the water soluble polymer having second phosphorus acid groups is actually the dominant pathway, and the water soluble product is the dominant phosphorus containing species formed. Before the instant invention, the ratio of water-soluble polymer to emulsion polymer is typically well above 2. In performing the aqueous emulsion polymerization of the phosphorus acid monomer at a pH of less than 2, for example, the current invention minimizes the formation of water soluble polymer having second phosphorus acid groups and is a considerable improvement over the prior art. See, for example, the instant specification at page 12, line 9, to page 13, line 15.

Dersch fails to disclose aqueous emulsion polymerization of phosphorus acid monomer at a pH of less than 2, or any composition having a level of water soluble polymer having second phosphorus acid groups defined by the ratios of equivalents of second phosphorus acid groups to equivalents of first phosphorus acid groups in the range of less than or equal to 1.5, as instantly recited.

Because Dersch fails to disclose each and every feature of the rejected claims, Dersch fails to anticipate the claims of the instant application.

Claims 1-4, 6, 8-10, and 18-19 are rejected under 35 U.S.C. §102(e) as being anticipated by Edwards *et al.* (U.S. 7,101,921), hereafter "Edwards". Applicants respectfully traverse this rejection.

Edwards fails to disclose polymers prepared by aqueous emulsion polymerization of phosphorus acid monomer at a pH of less than 2, as instantly recited. Further, Dersch fails to disclose compositions having a level of water soluble polymer having second phosphorus acid

U.S. Serial No. 10/730,353 Reply to 1-Dec-06 OA

Page 7 of 8

groups defined by the ratios of equivalents of second phosphorus acid groups to equivalents of first phosphorus acid groups in the range of less than or equal to 1.5, as instantly recited.

Applicants have performed very many polymerizations of phosphorus acid monomers and have found that the ratios of equivalents of second phosphorus acid groups to equivalents of first phosphorus acid groups is well above 2. Thus, Edwards fails to disclose each and every feature of the rejected claims and Edwards fails to anticipate the claims of the instant application. The rejections should be withdrawn.

#### Claim Rejections: 35 U.S.C. §103(a)


Claims 1-4, 6, 8-10, and 18-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Brown *et al.* (U.S. 2004/0054063; "Brown"), in view of Dersch *et al.* (U.S. 6,492,451; "Dersch"). Applicants respectfully traverse this rejection.

In view of the Statement of Common Ownership and Terminal Disclaimer presented above, Applicants respectfully submit that Brown is not available for a 35 U.S.C. §103(a) rejection. This rejection should be withdrawn.

#### CONCLUSION

Based on the foregoing, the instant claims are believed to be in condition for allowance. Applicants' attorney thanks the Examiner for the time taken to review this response. The Applicants request early and favorable action, including allowance of claims 1-4, 8-10, and 18-19 in light of the foregoing remarks.

Respectfully submitted,

  
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U.S. Serial No. 10/730,353 Reply to 1-Dec-06 OA

Page 8 of 8

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